

AMENDED IN ASSEMBLY APRIL 12, 2004

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 2440**

**Introduced by Assembly Member Shirley Horton**

**(Coauthors: Assembly Members Bates, Benoit, Cogdill, Cox, Haynes Daucher, Frommer, Haynes, Kehoe, La Suer, Maze, Pacheco, Plescia, Runner, Samuelian, Spitzer, Vargas, and Wyland)**

**(Coauthor: Senator Alpert)**

February 19, 2004

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An act to amend Sections 23109 and 40000.15 of the Vehicle Code, relating to vehicles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2440, as amended, Shirley Horton. Vehicles: speed contests.

The existing Louis Friend Memorial Act makes it a crime for a person to engage in a motor vehicle speed contest on a highway. The act requires a person who is convicted of that crime for an offense that occurred within 5 years of the date of a prior offense constituting that crime that resulted in a conviction to be punished by imprisonment in the county jail for 4 days to 6 months and by a fine.

This bill would increase the punishment for that crime to imprisonment in the state prison, or in a county jail for 4 days to one year, and the fine. *The bill would increase the punishment upon a second conviction, if the perpetration of the most recent offense proximately causes bodily injury to a person other than the defendant,*

*to imprisonment in a county jail for not less than 30 days to one year and by the fine; and, if the perpetration of the most recent offense proximately causes great bodily injury, as defined, or death to a person other than the defendant, to imprisonment in the state prison, or in a county jail for not less than 30 days to one year, and by the fine.* Because the bill would change the penalty for a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 23109 of the Vehicle Code is amended
- 2 to read:
- 3 23109. (a) No person may engage in a motor vehicle speed
- 4 contest on a highway. As used in this section, a motor vehicle speed
- 5 contest includes a motor vehicle race against another vehicle, a
- 6 clock, or other timing device. For purposes of this section, an event
- 7 in which the time to cover a prescribed route of more than 20 miles
- 8 is measured, but where the vehicle does not exceed the speed limit,
- 9 is not a speed contest.
- 10 (b) No person may aid or abet in a motor vehicle speed contest
- 11 on a highway.
- 12 (c) No person may engage in a motor vehicle exhibition of
- 13 speed on a highway, and no person may aid or abet in a motor
- 14 vehicle exhibition of speed on a highway.
- 15 (d) No person may for the purpose of facilitating or aiding or
- 16 as an incident to a motor vehicle speed contest or exhibition upon
- 17 a highway in any manner obstruct or place a barricade or
- 18 obstruction or assist or participate in placing a barricade or
- 19 obstruction upon a highway.
- 20 (e) A person convicted of a violation of subdivision (a) shall
- 21 be punished by imprisonment in the county jail for not less than 24
- 22 hours nor more than 90 days or by a fine of not less than three



1 hundred fifty-five dollars (\$355) nor more than one thousand  
2 dollars (\$1,000) or by both that fine and imprisonment. The  
3 person's privilege to operate a motor vehicle shall be subject to  
4 suspension as provided in subdivision (a) of Section 13352. The  
5 person's privilege to operate a motor vehicle may be restricted for  
6 90 days to six months to necessary travel to and from that person's  
7 place of employment and, if driving a motor vehicle is necessary  
8 to perform the duties of the person's employment, restricted to  
9 driving in that person's scope of employment. This subdivision  
10 does not interfere with the court's power to grant probation in a  
11 suitable case.

12 (f) ~~A person~~ *If a person is* convicted of a violation of  
13 subdivision (a) for an offense that occurred within five years of the  
14 date of a prior offense that resulted in a conviction of a violation  
15 of ~~subdivision (a) shall be punished by imprisonment in the state~~  
16 ~~prison, or in subdivision (a), that person shall be punished by~~  
17 *imprisonment in a county jail for not less than four days nor more*  
18 *than one year, and by a fine of not less than five hundred dollars*  
19 *(\$500) nor more than one thousand dollars (\$1,000). If the*  
20 *perpetration of the most recent offense proximately causes bodily*  
21 *injury to a person other than the defendant, a person convicted of*  
22 *that second violation shall be imprisoned in a county jail for not*  
23 *less than 30 days nor more than one year and by a fine of not less*  
24 *than five hundred dollars (\$500) nor more than one thousand*  
25 *dollars (\$1,000). If the perpetration of the most recent offense*  
26 *proximately causes great bodily injury, as defined in Section*  
27 *12022.7 of the Penal Code, or death to a person other than the*  
28 *defendant, a person convicted of that second violation shall be*  
29 *imprisoned in the state prison, or in a county jail for not less than*  
30 *30 days nor more than one year and by a fine of not less than five*  
31 *hundred dollars (\$500) nor more than one thousand dollars*  
32 *(\$1,000). Additionally, the Department of Motor Vehicles shall*  
33 *either suspend the person's privilege to operate a motor vehicle, as*  
34 *provided in subdivision (a) of Section 13352, or the person's*  
35 *privilege to operate a motor vehicle shall be restricted for six*  
36 *months to necessary travel to and from that person's place of*  
37 *employment and, if driving a motor vehicle is necessary to*  
38 *perform the duties of the person's employment, restricted to*  
39 *driving in that person's scope of employment. This subdivision*

1 does not interfere with the court's power to grant probation in a  
2 suitable case.

3 (g) If the court grants probation to a person punishable under  
4 subdivision (f), in addition to the provisions of subdivision (f) and  
5 any other terms and conditions imposed by the court, which may  
6 include a fine, the court shall impose as a condition of probation  
7 that the person be confined in the county jail for not less than 48  
8 hours nor more than six months. The person's privilege to operate  
9 a motor vehicle shall also be suspended by the Department of  
10 Motor Vehicles pursuant to subdivision (a) of Section 13352 or  
11 shall be restricted pursuant to subdivision (f).

12 (h) If a person is convicted of a violation of subdivision (a) and  
13 the vehicle used in the violation is registered to that person, the  
14 vehicle may be impounded at the registered owner's expense for  
15 not less than one day nor more than 30 days.

16 (i) A person who violates subdivision (b), (c), or (d) shall upon  
17 conviction thereof be punished by imprisonment in the county jail  
18 for not more than 90 days or by fine of not more than five hundred  
19 dollars (\$500) or by both that fine and imprisonment.

20 (j) If a person's privilege to operate a motor vehicle is restricted  
21 by a court pursuant to this section, the court shall clearly mark the  
22 restriction and the dates of the restriction on that person's driver's  
23 license and promptly notify the Department of Motor Vehicles of  
24 the terms of the restriction in a manner prescribed by the  
25 department. The Department of Motor Vehicles shall place that  
26 restriction in the person's records in the Department of Motor  
27 Vehicles and enter the restriction on a license subsequently issued  
28 by the Department of Motor Vehicles to that person during the  
29 period of the restriction.

30 (k) The court may order that a person convicted under this  
31 section, who is to be punished by imprisonment in the county jail,  
32 be imprisoned on days other than days of regular employment of  
33 the person, as determined by the court.

34 (l) This section shall be known and may be cited as the Louis  
35 Friend Memorial Act.

36 SEC. 2. Section 40000.15 of the Vehicle Code is amended to  
37 read:

38 40000.15. A violation of any of the following provisions is a  
39 misdemeanor, and not an infraction:

40 (a) Sections 23103 and 23104, relating to reckless driving.

(b) Subdivision (a) of Section 23109 punishable under subdivision (e) of that section, or subdivision (b), (c), or (d) of Section 23109, relating to speed contests or exhibitions.

(c) Subdivision (a) of Section 23110, relating to throwing at vehicles.

(d) Section 23152, relating to driving-under-the-influence.

(e) Subdivision (b) of Section 23222, relating to possession of marijuana.

(f) Subdivision (a) or (b) of Section 23224, relating to persons under 21 years of age knowingly driving, or being a passenger in, a motor vehicle carrying any alcoholic beverage.

(g) Section 23253, relating to officers on vehicular crossings.

(h) Section 23332, relating to trespassing.

(i) Section 24002.5, relating to unlawful operation of a farm vehicle.

(j) Section 24011.3, relating to vehicle bumper strength notices.

(k) Section 27150.1, relating to sale of exhaust systems.

(l) Section 27362, relating to child passenger seat restraints.

(m) Section 28050, relating to true mileage driven.

(n) Section 28050.5, relating to nonfunctional odometers.

(o) Section 28051, relating to resetting odometers.

(p) Section 28051.5, relating to devices to reset odometers.

(q) Subdivision (d) of Section 28150, relating to possessing four or more jamming devices.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.